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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,299	03/26/2004	Christian Bleys	Serie 6155	9269

7590 11/15/2004

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EXAMINER
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PATEL, NIHIR B

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/810,299

Applicant(s)

BLEYS ET AL.

Examiner

Nihir Patel

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on March 26<sup>th</sup>, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03.26.2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Russel, Sr. et al. US Patent No. 5,099,837. Referring to claim 11, Russel discloses an inhalation-based control of medical gas that comprises a source of compressed gas 12 (see figure 1), wherein the compressed gas source is equipped with a gas-pressure-reducing valve 18 (see figure 1) device to control the flowrate and the pressure of the gas issuing from the compressed gas source (see column 6 line 54); respiratory assistance ventilator 22 (see figure 1) fed with gas by the compressed gas source 12; and a man/machine interface 66 (see figure 1) cooperating with the ventilator so as to permit regulation of at least one ventilation parameter and at least one ventilation set-point (see column 8 line 15).

Referring to claim 12, Russel discloses an apparatus wherein the gas pressure-reducing valve device comprises an outlet connector to which the respiratory assistance ventilator is fixed (see figure 1).

Referring to claim 16, Russel discloses an apparatus wherein the man/machine interface comprises means for regulating a ventilation set-point or parameter in order to permit selection and regulation of at least one ventilation parameter or of at least one ventilation set-point (see figure 1).

Referring to claim 17, Russel discloses an apparatus that further comprises a display means cooperating with the regulating means in order to make it possible to visualize and display at least one value of at least one ventilation parameter or of at least one ventilation set-point that has been selected and regulated (see figure 1).

Referring to claim 18, Russel discloses an apparatus that further comprises a patient circuit with at least one gas conduit connected, via its upstream end, to the outlet of the ventilator and, via its downstream end to a respiration mask (see figure 1).

Referring to claim 20, Russel discloses an apparatus wherein the means for regulating a ventilation set-point or parameter permit selection and regulation of at least one ventilation parameter or of at least one ventilation set-point are selected from the group consisting of ventilation frequency; ventilation flow-rate; ventilation volume; composition of the gas mixture; inhalation trigger threshold; inhalation time; exhalation time; inhalation time and exhalation time; ratio of inhalation time and exhalation time; positive expiratory pressure (PEP); ventilation mode; and maximum safety pressure.

Referring to claim 21, Russel discloses an apparatus wherein the pressure-reducing valve device, the respiratory assistance ventilator, and the man/machine interface cooperating with the ventilator form a compact system supported by the compressed gas source.

Referring to claim 22, Russel discloses an apparatus wherein the compact system is supported by an oxygen cylinder.

Referring to claim 29, Russel discloses an inhalation-based control of medical gas that comprises a source of compressed gas 12 (see figure 1), wherein the compressed gas course is equipped with a gas pressure-reducing valve 18 device to control the flow-rate and the pressure

Art Unit: 3743

of the gas issuing from the compressed gas source; a respiratory ventilator 22 (see figure 1) fed with gas by the compressed gas source; and a man/machine interface cooperating with the ventilator so as to permit regulation of at least one ventilation parameter and at least one ventilation set-point.

Claims 11, 13, 15, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Jonsson et al. US Patent No. 3,741,208. Referring to claim 11, Jonsson discloses a lung ventilator that comprises a source of compressed gas, wherein the compressed gas source is equipped with a gas pressure-reducing valve device to control the flow-rate and the pressure of the gas issuing from the compressed gas source; a respiratory assistance ventilator fed with gas by the compressed gas source; and a man/machine interface cooperating with the ventilator so as to permit regulation of at least one ventilation parameter and at least one ventilation set-point (see column 3 line 3).

Referring to claim 13, Jonsson discloses an apparatus wherein the respiratory assistance ventilator comprises an internal gas circuit forming a fluidic connection from an inlet orifice to an outlet orifice, and a proportional valve being arranged on the internal circuit, the valve being controlled by control means cooperating with the man/machine interface.

Referring to claim 14, Jonsson discloses an apparatus wherein the respiratory assistance ventilator further comprises a venturi injector arranged on the internal circuit, downstream of the proportional valve.

Referring to claim 15, Jonsson discloses an apparatus wherein the respiratory assistance ventilator further comprises a flow-rate sensor and a pressure sensor for measuring the flow-rate and the pressure of the gas in the internal circuit, the sensors cooperating with the control means.

Art Unit: 3743

in such a way as to permit automatic control and regulation of the proportional valve in terms of flow-rate or pressure.

Referring to claim 19, Jonsson discloses an apparatus wherein the pressure-reducing valve and the ventilator are protected by a protective hood fixed on the compressed gas source.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 24, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russel, Sr. et al. US Patent No. 5,099,837 in view of Dubois et al. US Patent No. 6,520,176.

Referring to claims 23 and 24, Russel discloses the applicant's invention as claimed with the exception of providing a portable assembly apparatus for emergency ventilation that has a total weight less than 15 kg. Dubois discloses a portable oxygen concentrator that a portable assembly apparatus for emergency ventilation that has a total weight less than 15 kg (see abstract).

Therefore it would have been obvious to modify Russel's invention by providing a portable assembly apparatus for emergency ventilation that has a total weight less than 15 kg in order to make it easier to carry around.

Referring to claim 25, 26 and 28, Russel discloses the applicant's invention as claimed with the exception of providing a carrier arrangement selected from a group consisting of backpack; harness; and any similar carrying means. Dubois discloses a portable oxygen concentrator that does provide a carrier arrangement selected from a group consisting of

Art Unit: 3743

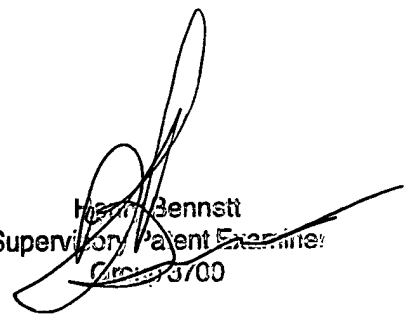
backpack; harness; and any similar carrying means (see figure 5). Therefore it would have been obvious to modify Russel's invention by providing a carrier arrangement selected from a group consisting of backpack; harness; and any similar carrying means in order to make it easier to carry around.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russel, Sr. et al. US Patent No. 5,099,837 in view of Jonsson et al. US Patent No. 3,741,208. Referring to claim 27, Russel discloses the applicant's invention as claimed with the exception of providing a respiratory assistance ventilator comprises an internal gas circuit forming a fluidic connection from an inlet orifice to an outlet orifice and a proportional valve being arranged on the internal circuit the valve being controlled by control means cooperating with the man/machine interface and a pressure-reducing valve device, the respiratory assistance ventilator, and the ventilator are protected by a protective hood fixed on the compressed gas source.

Jonsson discloses a lung ventilator that provides a respiratory assistance ventilator comprises an internal gas circuit forming a fluidic connection from an inlet orifice to an outlet orifice and a proportional valve being arranged on the internal circuit the valve being controlled by control means cooperating with the man/machine interface and a pressure-reducing valve device, the respiratory assistance ventilator, and the ventilator are protected by a protective hood fixed on the compressed gas source. Therefore it would have been obvious to modify Russel's invention by providing a respiratory assistance ventilator comprises an internal gas circuit forming a fluidic connection from an inlet orifice to an outlet orifice and a proportional valve being arranged on the internal circuit the valve being controlled by control means cooperating with the man/machine interface and a pressure-reducing valve device, the respiratory assistance

Art Unit: 3743

ventilator, and the ventilator are protected by a protective hood fixed on the compressed gas source in order for the emergency ventilator to function more accurately.



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07/03/00